

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below.



/S/ RUSS KENDIG

Russ Kendig
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:)	CHAPTER 7
)	
DENISE CAROLINE CARPENTER)	CASE NO. 10-63742
AND TIMOTHY LEE CARPENTER,)	
)	JUDGE RUSS KENDIG
Debtors.)	
)	
)	ORDER GRANTING
)	APPLICATION TO PROCEED
)	IN FORMA PAUPERIS

This matter is before the court on Debtors' Application to Proceed *In Forma Pauperis* (hereafter "application") filed on August 30, 2010.

Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, debtors are permitted to seek a waiver of the bankruptcy filing fee. Pursuant to 28 U.S.C. § 1930(f), a "bankruptcy court may waive the filing fee . . . if the court determines that such individual has less than 150 percent of the income official poverty line . . . applicable to a family of the size involved and is unable to pay that fee in installments." The Court's ability to waive the filing fee is permissive, not mandatory. The Court must consider both qualitative and quantitative factors in its decision.

The applicable poverty income levels are available from the Department of Health and Human Services and can be found at:

<http://www.uscourts.gov/bankruptcycourts/povertyguidelines2009.pdf>¹

According to the chart, the poverty income for a family of six, at 150% of poverty, is \$3,691.25 per month. According to the application, Debtors' combined average monthly income, as stated on line 16 of Schedule I, is \$1,699.08, comprised of wages and social security disability income. Clearly, Debtors' income is less than 150% of the official poverty lien for a family of six.

Next, the Court must determine whether Debtors have the ability to pay the filing fee in installments. Debtors' application and Schedule J list \$1,819.00 in monthly expenses, which appear reasonable. Schedule J also shows Debtors' income is not sufficient to pay all of their monthly expenses, resulting in a monthly shortfall of \$119.91. Based on these facts, the Court finds that Debtors do not have the ability to pay the filing fee in installments.

In light of the above, the Court hereby **GRANTS** Debtors' application to waive the filing fee. This order applies only to the initial case filing fee and not any subsequent fees which may be payable by Debtors in this case. This order is subject to being vacated at a later time if developments in the administration of the bankruptcy case demonstrate that the waiver was unwarranted.

It is so ordered.

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¹ Per information found at <http://www.uscourts.gov/FederalCourts/BankruptcyResources/PovertyGuidelines.aspx>, pursuant to the Department of Defense Appropriations Act, 2010 (Pub. L. 111-118), the 2009 poverty guidelines are in effect "until updated poverty guidelines are published." See Exhibit A.

CERTIFICATE OF NOTICE

District/off: 0647-6
Case: 10-63742

User: mmccr
Form ID: pdf914

Page 1 of 1
Total Noticed: 3

Date Rcvd: Sep 24, 2010

The following entities were noticed by first class mail on Sep 26, 2010.

db/db +Denise Caroline Carpenter, Timothy Lee Carpenter, 1196 12th Street NW,
New Philadelphia, OH 44663-1053
ust +Cynthia J. Thayer, US Department of Justice, 201 Superior Avenue, Suite 441,
Cleveland, OH 44114-1234

The following entities were noticed by electronic transmission on Sep 24, 2010.

cr +E-mail/PDF: rmscedi@recoverycorp.com Sep 25 2010 01:54:42
Recovery Management Systems Corporation, 25 S.E. 2nd Avenue, Suite 1120,
Miami, FL 33131-1605

TOTAL: 1

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Sep 26, 2010

Signature:

